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INTERGOVERNMENTAL NEGOTIATING COMMITTEE FOR
THE ELABORATION OF AN INTERNATIONAL CONVENTION
TO COMBAT DESERTIFICATION IN THOSE COUNTRIES
EXPERIENCING SERIOUS DROUGHT AND/OR
DESERTIFICATION, PARTICULARLY IN AFRICA
Sixth Session
New York, 9-20 January 1995
Agenda items 2 and 3

WORK PROGRAMME FOR THE INTERIM PERIOD PREPARATION FOR THE CONFERENCE OF THE PARTIES

Note by the Secretariat

	Page
INTRODUCTION	2
SECTION ONE: WORK PROGRAMME FOR THE INTERIM PERIOD	3
I. Interim implementation and communication of information	3
II. Public awareness and capacity building activities	3
II. Committee input to the Commission on Sustainable Development	4
SECTION TWO: PREPARATION FOR THE CONFERENCE OF THE PARTIES	4
I. Decisions required at the first session	5
A. Rules of procedure	5
B. Financial rules, programme and budget	5
C. Designation of Permanent Secretariat	5
D. Global financial mechanism and related issues	6
II. Functions of the Conference of the Parties	6
A. Review of implementation/communication of information	6
B. Committee on Science and Technology	7
C. Promotion of relationships with other conventions	7
D. Adoption of procedure to resolve implementation questions	8
E. Adoption of annexes on conciliation and arbitration	8
SECTION THREE: ORGANIZATION AND SCHEDULING OF WORK	8
APPENDIX A: CHECKLIST OF RELEVANT CONVENTION PROVISIONS	10

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INTRODUCTION

1. The adoption of the Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, on 17 June 1994, marked the beginning of a process of signature and ratification leading to its entry into force and to the subsequent convening of the first session of the Conference of the Parties.

2. The Convention will enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession. The first session of the Conference of the Parties must be held not later than one year after the date of entry into force of the Convention. Based on the recent precedents of the United Nations Framework-Convention on Climate Change and of the Convention on Biological Diversity, it would seem reasonable to assume that the Convention might enter into force in the course of 1996.

3. In this case, the first session of the Conference of the Parties might take place in the first half of 1997. Other scenarios are possible. It would seem prudent, however, to develop a programme of work based on this timeframe, with sufficient flexibility to adapt to the exact duration of the interim period. The INCD can take advantage of the interim period to carry out the preparatory work required to ensure both the smooth functioning of the Conference of the Parties and the prompt implementation of the various operative provisions of the Convention. In addition, the INCD will wish to review the effective implementation of the urgent action for Africa during the interim period.

4. Preparatory work can be divided into the following two main areas, which are reflected in two distinct agenda items.

(a) A programme of work relating to the implementation of the urgent action for Africa and other related substantive matters on which the INCD may wish to take early action

(b) Preparation for the Conference of the Parties, which involves procedural, legal and institutional matters requiring a decision at the first session of the Conference of the Parties

5. The purpose of this note is to facilitate discussions at the sixth session by providing a brief analysis of the issues to be addressed during the interim period under both agenda items, as well as suggestions with respect to organizational matters and a schedule of work.

SECTION ONE: WORK PROGRAMME FOR THE INTERIM PERIOD

I. INTERIM IMPLEMENTATION AND COMMUNICATION OF INFORMATION

6. Consistent with the resolution on urgent action for Africa, affected African countries provided information, at the time of signature and during subsequent debate at the forty-ninth session of the General Assembly, on the actions they have taken or propose to take, during the interim period, for the implementation of the resolution. Developed countries, international organizations and United Nations bodies, programmes and agencies, as well as those countries that may provide assistance on a voluntary basis, provided information in the same framework.

7. A compilation of this information is provided in document A/AC.241/30 which could serve as a starting point for discussions on this agenda item. An initial review of action taken pursuant to the resolution could focus on the first steps for the preparation of action programmes at the national and subregional levels in Africa, as well as progress made in the establishment of consultative processes leading to partnership agreements.

8. The Committee will need to consider the way in which it will review interim action in Africa, as well as in other regions, at its seventh and subsequent sessions. Such a review could be based on paragraph 7 of the Committee's resolution on interim arrangements which "invites States and regional economic integration organizations entitled to sign the Convention to communicate as soon as practicable to the Interim Secretariat information regarding measures taken consistent with the provisions of the Convention, either individually, bilaterally or multilaterally, pending its entry into force." Statements by United Nations bodies, programmes and agencies, as well as by financial institutions, could also play a part in the review by the Committee.

9. The Secretariat will require the Committee's guidance regarding arrangements for the communication of information during the interim period so that it can inform governments and organizations about procedures to follow. The issues that arise in this respect parallel those in Section Two, Part II, item (A) of this note. Additional guidance will be needed on Secretariat efforts to facilitate the urgent action in Africa, as well as interim implementation in other regions. Document A/AC/241/31 discusses these issues.

II. PUBLIC AWARENESS AND CAPACITY BUILDING ACTIVITIES

10. There is an obvious need for prompt measures to raise the awareness of the public and key officials in all countries, and particularly in African affected countries, with respect to the process set out in the Convention. This is important to ensure both rapid ratification of the Convention by a large number of signatories and its effective implementation in the interim period and beyond. Lack of awareness may be the single most important obstacles to effective interim implementation.

11. As the resolution on urgent action for Africa is at an early stage of implementation, measures to raise the awareness of local populations, non-governmental organizations and officials in affected countries, particularly in African countries, take on particular significance and a degree of urgency.

Capacity building is equally important to ensure the effective participation of the populations in the preparation and implementation of action programmes, as well as the necessary cooperation between the various sectors of activity.

12. The Secretariat is considering actions it could appropriately take to raise public awareness. These include the preparation of an easily accessible brochure on the Convention, and of fact sheets on its key provisions. Other actions involving assistance by the Secretariat, in cooperation with local institutions, could include awareness campaigns and seminars aimed at explaining the Convention to key actors in affected countries, particularly African countries. Intergovernmental organizations, as well as individual countries, both developed and developing, are also preparing public awareness activities to promote ratification and implementation of the Convention. The Committee may wish to hear progress reports on such activities and provide necessary guidance to the Secretariat.

III. COMMITTEE INPUT TO THE COMMISSION ON SUSTAINABLE DEVELOPMENT

13. At its third meeting in April 1995, the Commission on Sustainable Development (CSD) will focus on interrelationships among the chapters of Agenda 21 dealing with land issues, including Chapter 12 on combatting desertification. The Committee may wish to make an input to the Commission's deliberations. For this purpose, the Secretariat will circulate, prior to the sixth session, a paper which the United Nations Environment Programme (UNEP) -- the task manager for Chapter 12 -- is preparing for the CSD with the help of other international organizations.

14. On the basis of the UNEP paper, the Chairman could introduce this topic at the sixth session by highlighting issues of particular interest to the Committee. He could then prepare a summary of the debate for use by the CSD.

SECTION TWO: PREPARATION FOR THE CONFERENCE OF THE PARTIES

15. Before addressing matters of substance, the Conference of the Parties will be required, at its first session, to make appropriate decisions on institutional, procedural and legal matters relating to the conduct of its work. Part of this work flows from provisions of the Convention which require that certain decisions be made at the first session. Discussions will also be required with respect to other functions of the Conference of the Parties that need to be addressed at its first session or soon thereafter.

16. The following parts of this section deal in turn with matters which should or which might come up at the first session of the Conference of the Parties. Appendix A summarizes the provisions of the Convention relevant to each items with citations in the order in which they appear under the subheadings of this Section. The Committee will need to discuss how to proceed with these items, as well as with others it might wish to add to the list, and provide appropriate guidance to the Secretariat.

17. In preparing an item for consideration by the Conference of the Parties, the INCD may choose to

(a) recommend the exact wording of decisions by the Conference of the Parties,

(b) provide options for decision,

(c) submit background papers to facilitate deliberations, and

(d) ask the Secretariat to prepare appropriate materials, in cooperation as appropriate with competent international organizations.

18. On the basis of the above, the INCD will need to approve, in due course, a provisional agenda for the Conference of the Parties.

I. DECISIONS REQUIRED AT THE FIRST SESSION

A. Rules of procedure

19. Rules of procedure for the Conference of the Parties and its subsidiary bodies are essential to the functioning of the Conference of the Parties. Thus, it would seem appropriate to initiate discussions on this agenda item at a very early stage. To facilitate progress on this item, the Secretariat could be instructed to prepare a draft, drawing on the numerous precedents provided by other conventions, to serve as a basis for discussion at the seventh session.

B. Financial rules, programme and budget

20. Financial rules govern the mode of financing the activities of the Conference of the Parties, its subsidiary bodies and the Permanent Secretariat. They include the sources of funding, such as assessed or voluntary contributions or the regular budget of the United Nations, as well as the scale of assessed contributions, the process for the review and approval of the programme and budget, and its scope. The Interim Secretariat could prepare papers outlining possible options for the financial rules and for the programme and budget.

21. Decisions on these matters are related to decisions to be made with respect to the Secretariat itself, that is whether it is fully independent or linked to an existing organization. If it were decided to place the Permanent Secretariat within an established administrative framework, the financial rules applicable to the Secretariat would have to take into account the financial procedures of that framework. Thus, it might be appropriate to examine these two items together. While the Convention does not prescribe the exact timing of a decision on a programme and a budget, a decision will obviously be required at an early stage.

C. Designation of Permanent Secretariat

22. The designation of a Permanent Secretariat and arrangements for its functioning could be taken up in a manner similar to that of the Intergovernmental Negotiating Committees on Climate Change and Biodiversity. Governments and organizations interested to host the Permanent Secretariat could be invited to make

proposals in writing. Proposals would be compiled by the Interim Secretariat in a note which could also review the relative advantages of the various options and offers received. The Committee would also need to weigh the possible significance of the decisions made on the location of the permanent secretariats of the Conventions on Climate Change and on Biological Diversity in the light of the advantages or disadvantages of co-locating related secretariats.

D. Global financial mechanism and related issues

23. A schedule for discussion of the Global Mechanism should be consistent with the need, at the first session of the Conference of the Parties, not only to identify an organization to house such Mechanism but also to reach an agreement with the organization identified on the modalities of the Mechanism and administrative arrangements for its operation. This suggests the initiation of discussions on this matter at an early stage in order to determine how to proceed.

24. The Conference of the Parties would need to consider arrangements for the Global Mechanism in the context of approaches and policies to mobilize and channel substantial financial resources to affected developing countries in implementing the Convention. It is logical, therefore, for the Committee also to consider these matters simultaneously.

II. FUNCTIONS OF THE CONFERENCE OF THE PARTIES

A. Review of implementation/communication of information

25. One of the main functions of the Conference of the Parties is to review the implementation of the Convention and its institutional arrangements on the basis of information communicated by the Parties. Considerable care will be required to devise an acceptable and effective system for communication of information. To assist the INCD in recommending such a system, the Secretariat could be mandated to prepare an analysis of how such systems operate under other conventions and how to take account of the unique characteristics of the Convention to Combat Desertification.

26. Any experience gained through communication of information during the interim period would contribute significantly to the analysis. In addition, the Conference of the Parties would benefit from a report, which the Secretariat could prepare, summarizing implementation of the Convention during the interim period.

27. Other questions which arise regarding a permanent system for communicating information include the following:

(a) The frequency of communicating information

(b) The desirability of specifying a common format in order to obtain comparable information on key actions, for example the designation of focal points for national and subregional action programmes

(c) The utility of the Secretariat circulating communications in the language submitted and then providing summaries in all official languages

(d) The timing of distributing communications and summaries to members of the Committee, for example immediately on receipt or in batches prior to sessions of the Committee

(e) The benefits from uploading communications or their summaries to computer network conferences

(f) The need for the Secretariat to prepare notes synthesizing all communications received, as opposed to simply transmitting them, perhaps in summary form, to the Committee

(g) Technical and financial support to affected developing countries in compiling and communicating information, consistent with the Convention

B. Committee on Science and Technology

28. Preparatory work will be required to allow the first session of the Conference of the Parties to decide on the terms of reference of the Committee on Science and Technology, including its mandate, its responsibilities for reporting to the Conference of the Parties and its modalities for operating ad hoc panels drawn from a roster of experts. In this connection, the Secretariat could propose draft terms of reference on the basis of consultations with scientific experts. If the INCD wishes the Committee on Science and Technology to meet simultaneously with the first session of the Conference of the Parties, it will also have to decide on appropriate agenda items and arrange for the preparation of appropriate background materials. Possible agenda items include arrangements for the collection and distribution of data, research priorities, promotion of scientific, technical and technological cooperation, inventories and utilization of traditional knowledge, and networking of relevant institutions, including networks of regional education and training centres.

29. The Secretariat would have to draw on outside expertise, including consultants and competent UN agencies, to assist the INCD with preparing such background materials. In this respect, the INCD might wish to consider interim activation of the system of ad hoc panels and roster of experts. If the INCD so wishes, the Secretariat could circulate to governments soon after the sixth session a form on which to make nominations. It could then present at the seventh session, a preliminary roster of experts, with adequate coverage in terms of scientific specialties and geographic representation, and draft operating procedures for ad hoc panels. On this basis, the INCD could decide what topics to assign to ad hoc panels and set a schedule for receiving their reports.

C. Promotion of relationships with other conventions

30. This is not an area which is likely to require formal decisions by the INCD or the Conference of the Parties. In order to receive informal guidance, the Interim Secretariat could, however, provide the Committee and the Conference of the Parties with an assessment of the benefits it is gaining from cooperation with other secretariats and options for new areas of cooperation. This would also be useful in assessing options for the location of the Permanent Secretariat as discussed in Section Two, Part I, item (C).

D. Adoption of procedure to resolve questions on implementation

31. The Convention provides that the Conference of the Parties shall consider and adopt procedures and institutional mechanisms for the resolution of questions that may arise with regard to the implementation of the Convention. This relatively recent feature of international conventions is quite distinct from the traditional dispute settlement procedures (see below). Its purpose is to address and resolve differences of views concerning the implementation of the Convention between two or more Parties at an early stage, before a matter develops into a full-fledged dispute.

32. Clearly, it is desirable that such procedures be adopted as soon as possible after the entry into force of the Convention. It would be possible to lay the groundwork during the interim period for adoption of the procedure at the first session of the Conference of the Parties. The Secretariat could provide the Committee with a first draft of the procedures drawing in part on experience from other conventions.

E. Adoption of annexes on conciliation and arbitration

33. The Convention also provides that Parties shall settle disputes between them on the interpretation and application of the Convention through peaceful means. It further provides that the Parties may choose a procedure for dispute settlement, including conciliation or arbitration. However, due to the lack of time, it was not possible to adopt procedures on arbitration and conciliation during the negotiations of the Convention. For this reason, the Convention provides that such procedures shall be adopted by the Conference of the Parties in an annex as soon as practicable. As in the case of procedures to resolve questions on implementation, the Secretariat could provide a first draft of these annexes.

SECTION THREE: ORGANIZATION AND SCHEDULING OF WORK

34. The INCD will need to consider how best to organize its work to address the issues in Sections I and II. The following considerations on this matter are intended to facilitate discussions among INCD members. They focus on a two working group approach to organization of work, although other configurations --for example the Plenary and one working group -- are clearly feasible as well.

35. Given the large number of items to be addressed, it would be very difficult for the INCD to complete its work in a reasonable number of meetings with plenary sessions alone. It could therefore usefully return to the configuration of a plenary and two working groups, which served it well during the negotiations of the Convention. This would again be on the understanding that, in order to promote full participation by small delegations in all aspects of INCD work, only two of these three entities could meet simultaneously. There would always be the possibility of convening informal sub-groups under the working groups to consider specific items.

36. From the standpoint of the workload of delegations and the Secretariat, it would not be possible for the two working groups to initiate detailed discussion of all items at the seventh session. Rather, it would be necessary to spread out over several sessions the presentation of detailed analyses by the Secretariat or other sources. However, the working groups would obviously be free to take up aspects of

any item in advance of the first detailed presentation on it. After discussing items in depth for the first time, the working groups would decide how best to continue their consideration of them in order to complete work at the last session of the INCD or before.

37. In light of the above, the Committee could adopt a programme of work for the working groups as appropriate, including the allocation of items to each group, a schedule for initial in depth discussion of each item and guidance to the Secretariat. It is obviously not possible to propose an allocation of items to the working groups until the Committee makes a decision on certain basic issues, such as the number of working groups. In any case, the programme of work will need to take into account the time required to prepare adequate documentation between sessions, the relatively long time period required for ad hoc scientific panels to produce high quality work and the desirability of putting off discussion of the work programme and budget until work on other items has progressed sufficiently.

APPENDIX A
CHECKLIST OF RELEVANT CONVENTION PROVISIONS

I. DECISIONS REQUIRED AT FIRST SESSION OF CONFERENCE OF PARTIES

A. Adopt rules of procedure by consensus, as well as financial rules for itself and its subsidiary bodies
(Article 22, paragraphs 2 (e), 3 and 6)

B. Approve programme and budget for its activities, including those of its subsidiary bodies, and make arrangements for their financing
(Article 22, paragraph 2 (g))

C. Designate a Permanent Secretariat and make arrangements for its functioning
(Article 23, paragraph 3)

D. Identify an organization to house the Global Mechanism, agree with the organization identified on the modalities of the Mechanism and make appropriate arrangements for its administrative operations
(Article 21, paragraphs 4, 5 and 6)

Take up following related financial issues in connection with discussion of Global Mechanism

-- Consider for adoption approaches and policies to promote the availability of financial mechanisms to maximize funding available for affected developing country Parties
(Article 21, paragraph 1)

-- Encourage the provision through United Nations agencies and multilateral financial institutions of support at national, subregional and regional levels for activities of developing country Parties to meet obligations of Convention
(Article 21, paragraph 2)

-- Promote the mobilization of adequate, timely and predictable financial resources, including new and additional funding from the Global Environment Facility
(Article 20, paragraph 2 (b))

II. FUNCTIONS OF THE CONFERENCE OF THE PARTIES

A. Promote and facilitate the exchange of information on measures adopted by the Parties, and determine the form and timetable for transmitting the information in accordance with Article 26, review the reports and make recommendations on them; facilitate the provision to affected developing country Parties, on request, or technical and financial support in communicating information as well as identifying technical and financial needs associated with action programmes
(Article 22, paragraph 2 (b) and Article 26, Paragraph 7)

Regularly review the implementation of the Convention and its institutional arrangements; seek the cooperation of, and utilize the services of and information provided by, competent national, international, intergovernmental and non-governmental organizations
(Article 22, paragraph 2 (a) and Article 22, paragraph 2 (h))

B. Undertake functions connected with Committee on Science and Technology, including:

-- Decide at its first session on the terms of reference for the Committee on Science and Technology
(Article 24, paragraph 1)

-- Maintain a roster of independent scientific experts and appoint from it ad hoc panels to provide, through the Committee on Science, and Technology, advice on specific scientific and technical issues
(Article 24, paragraphs 2 and 3)

-- Review research priorities periodically on the advice of the Committee on Science and Technology
(Article 17, paragraph 2)

-- Request competent organizations to provide information on provisions of the Convention regarding local and traditional knowledge, know-how and practices
(Article 22, paragraph 8)

-- Integrate and coordinate the collection, analysis and exchange of relevant data/information to ensure systematic observation of land degradation, *inter alia*, by facilitating and strengthening the functioning of a global network of institutions and facilities
(Article 16)

-- Promote technical and scientific cooperation, *inter alia*, through the conduct of joint research programmes between national, subregional, regional and international research organizations
(Article 17, paragraph 1)

-- Promote, finance and/or facilitate the financing of the transfer, acquisition, adaptation and development of relevant technologies, *inter alia* by fully utilizing existing national, subregional, regional and international information systems and clearing houses
(Article 18)

-- Establish and/or strengthen networks of regional education and training centres, coordinated by a created or designated institution as appropriate for that purpose
(Article 19, paragraph 4)

-- Identify, on the basis of evaluation by the Committee on Science and Technology, relevant entities to be networked for implementation of the Convention and recommend operational procedures and time frames for networking activities
(Article 25)

C. Promote and strengthen the relationship with other relevant conventions and encourage the coordination of activities carried out under the Convention and other relevant international agreements
(Article 8, paragraph 1 and Article 22, paragraph 2 (i))

D. Consider and adopt procedures and institutional mechanisms for the resolution of questions that may arise with regard to implementation of the Convention
(Article 27)

E. Adopt annexes containing procedures for arbitration and conciliation
(Article 28, paragraphs 2(a) and 6)